

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

3M Innovative Properties Company and  
3M Company,

Plaintiffs,

vs.

Racing Optics, Inc.,

Defendant

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)  
) Civil Action No.:  
)  
)  
) Jury Trial Demanded  
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)  
) Pat. # 6,461,709 B1  
) 6,777,055 B2  
)

**COMPLAINT**

Plaintiffs 3M Innovative Properties Company and 3M Company (collectively "3M") for their complaint against Defendant Racing Optics, Inc. ("Racing Optics") state and allege as follows:

**NATURE OF THE ACTION**

1. This is an action for willful patent infringement arising under the patent laws of the United States, including 35 U.S.C. § 271 and §§ 281-285.
2. Plaintiff 3M Innovative Properties Company is the owner, by assignment, of all right, title, and interest in United States Patent No. 6,461,709 B1 (the "709 Patent") entitled "Graffiti and/or Environmental Protective Article Having Removable Sheets, Substrates Protected Therewith, and a Method of Use." A true and correct copy of the 709 Patent is attached as Exhibit A.
3. Plaintiff 3M Innovative Properties Company is the owner, by assignment, of all right, title, and interest in United States Patent No. 6,777,055 B2 (the "055 Patent") entitled

"Protective Article Having Removable Sheets and Vertically Staggered Side Edge, Substrates Protected Therewith, and a Method of Use." A true and correct copy of the '055 Patent is attached as Exhibit B.

4. As set forth below, Defendant Racing Optics has willfully infringed and continues to willfully infringe the '709 and '055 Patents.

#### PARTIES

5. Plaintiff 3M Innovative Properties Company is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3M Center, St. Paul, Minnesota. 3M Innovative Properties Company is a wholly owned subsidiary of 3M Company.

6. Plaintiff 3M Company is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3M Center, St. Paul, Minnesota. 3M Company is a global, diversified manufacturing company. 3M Company develops, manufactures, and sells tens of thousands of innovative products across a wide range of industries, including the transportation industry and the graffiti and/or environmental protection products industry.

7. Upon information and belief, Racing Optics is a corporation organized under the laws of the State of Nevada, with its principal place of business located at 6160 North Hollywood Blvd., Las Vegas, Nevada. Racing Optics sells and offers to sell its infringing multi-layer tear-off products throughout the United States, including the state of Minnesota.

#### JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Racing Optics because, *inter alia*: (1) Racing Optics, on information and belief, does business throughout the United States, including in this judicial district; and (2) under the Minnesota Long Arm Statute, Minn. Stat. § 543.19, Racing Optics, on information and belief, transacts business in Minnesota and/or has committed acts of patent infringement within and/or outside Minnesota that have caused injury in Minnesota.

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(b).

### **FACTUAL BACKGROUND**

#### **3M's Innovative Protective Articles:**

11. 3M Innovative Properties Company owns two issued United States patents related to multi-layer protective articles having removable sheets.

12. Prior to the inventions, the useful life of windows, glass, and other substrates was reduced by damage to the surface of the substrate by, e.g., scratching and abrading. In addition to incidental damage arising from weathering, cleaning, and normal wear and tear, intentional damage, including graffiti and scratching, posed significant problems.

13. Efforts to address these problems have included a multi-step abrasion/polishing method to remove the damage; single-use sacrificial layers (e.g., polyester sheets coated with permanent adhesive) that are applied to the surface to be protected and removed and replaced when damaged; sacrificial windows (e.g., polycarbonate or acrylic sheets) positioned to shield the surface to be protected; and epoxy coatings applied to repair a damaged substrate. Each of these approaches had significant disadvantages including time, labor and cost of use.

14. After discovering these and other problems with the prior approaches, the inventors of the '709 and '055 Patents identified and developed a revolutionary solution to the

long-standing problem of protecting materials such as windows and glass from damage. These inventors conceived that a stack of sheets could be designed such that each sheet provided the desired damage protection, yet was removable from the sheet below. Thus, when the topmost sheet was damaged, it could be removed exposing the fresh sheet below.

15. On October 28, 1998, 3M filed U.S. Patent Application No. 09/181,532. The United States Patent and Trademark Office duly allowed this application which issued on October 8, 2002, as U.S. Patent No. 6,461,709.

16. On October 14, 2003, 3M filed U.S. Application No. 10/685,329 that ultimately issued as the '055 Patent. This application was a continuation of, and claimed the benefit of the June 27, 2000, filing date of 3M's U.S. Patent Application No. 09/604,475, now abandoned. On August 17, 2004, the United States Patent and Trademark Office duly issued the '055 Patent.

17. Since at least August 17, 2004, Racing Optics has offered for sale its infringing multi-layer tear-off product throughout the United States without license from 3M.

**COUNT I - INFRINGEMENT OF THE '709 PATENT**

18. 3M restates and realleges each of the assertions set forth in Paragraphs 1 through 17 above.

19. Racing Optics has offered to sell, in this judicial district and elsewhere in the United States, its multi-layer tear-off product that infringes the '709 Patent.

20. The infringement by Racing Optics of the '709 Patent has injured 3M, and will cause 3M further irreparable injury and damage in the future unless Racing Optics is enjoined from infringing said patent.

21. Upon information and belief, Racing Optics had actual knowledge of the '709 Patent, and has willfully, deliberately, and intentionally infringed the claims of the '709 Patent.

**COUNT II – INFRINGEMENT OF THE '055 PATENT**

22. 3M restates and realleges each of the assertions set forth in Paragraphs 1 through 21 above.

23. Racing Optics has offered to sell, in this judicial district and elsewhere in the United States, its multi-layer tear-off product that infringes the '055 Patent.

24. The infringement by Racing Optics of the '055 Patent has injured 3M, and will cause 3M further irreparable injury and damage in the future unless Racing Optics is enjoined from infringing said patent.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs 3M Innovative Properties Company and 3M Company (collectively "3M") pray for entry of judgment against Defendant Racing Optics, Inc. ("Racing Optics") as follows:

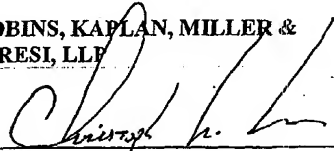
- a. Finding that Racing Optics has infringed the '709 and '055 Patents;
- b. Enjoining Racing Optics and its agents, servants, officers, directors, employees, affiliated entities, and all persons acting in concert with them, from continuing infringement of the '709 and '055 Patents;
- c. Ordering Racing Optics to account for and pay to 3M the damages to which 3M is entitled as a consequence of the infringement of the '709 and '055 Patents;
- d. Ordering that such damages be trebled for the willful, deliberate and intentional infringement by Racing Optics as alleged herein in accordance with 35 U.S.C. § 284;
- e. Finding this case to be "exceptional" and awarding 3M its costs and attorneys' fees herein in accordance with 35 U.S.C. § 285;
- f. Adding prejudgment and post-judgment interest on all sums awarded;
- g. Awarding 3M its costs as allowed by law; and
- h. Granting such other and further relief as the Court may deem just and equitable.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, 3M respectfully requests a trial by jury of any and all issues on which a trial by jury is available under applicable law.

Date: May 20, 2009

**ROBINS, KAPLAN, MILLER &  
CIRESI, LLP**



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